

REMARKS

Examiner Huson is thanks for her careful review and consideration of the present patent application. Nonetheless, it is respectfully submitted that the claim rejections are improper and should be withdrawn.

Claims that similar in scope in some respects to the claims of the present application are now pending in the parent application, 09/863,928. In that application, an Appeal Brief has been filed. The same references (Nakasuka, Altieri, Redding, Jr.) are of records in that application.

The Nakasuka reference is directed towards the formation of a complex of starch with a protein. This complex, according to Nakasuka "is not a simple mixture," but rather, "it seems that some degree of union has been established between both materials by chemical reaction, thus contributing to the improvement in physical properties." Col. 6, lines 33-40. Nakasuka does not specify the nature of the product formed thereby. Is it a starch? Is it a protein? Does the resulting material have any polymeric carbohydrate structure? Nakasuka does not say, and this detail is unclear. Nakasuka does refer to starch as a **starting material**, but does not identify starch as the material that results upon extrusion.

Additionally, Nakasuka fails to teach extruding the starch in an extruder having two zones, as specified in the claims. Claim 1 specifies that the temperature in the first zone of the extruder is insufficient to gelatinize the starch but that the temperature in the second zone is sufficient to gelatinize the starch. Where is this teaching in Nakasuka? Nakasuka is thus deficient, and the rejection must be withdrawn for at least this reason.

The rejection suffers from another fundamental defect. The Redding, Jr. and Nakasuka references are combinable only in hindsight. Nakasuka is concerned with a starch that is heavily modified in a starch-protein complex, perhaps to the extent of the loss of the starch structure. Redding, Jr., on the other hand, teaches that chemical starch modification is undesirable. See col. 2, line 30 *et seq.* Redding, Jr. teaches that the object of this invention is "to provide a cost effective and an energy efficient method of physical modification of starch and other substrates *without the necessity of chemical*

additives required by prior art processes” (emphasis added). Given the foregoing teachings, it is improper to combine Redding, Jr. with Nakasuka. Simply put, the reference teach directly away from such a combination. Only in hindsight can one pick and choose from what otherwise are contrary teachings of the references.

Finally, the new claim is patentable over the cited art. It is noted that Altieri teaches away from the particle size limitation.

Respectfully submitted,

Date: February 8, 2007

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